

Lake James Hammond Perriguet, OSB 983213
lake@law-works.com
Law Works LLC
1906 SW Madison Street
Portland, OR 97205
503-803-5184
Fax 503-334-2340

Dan Booth, MA Bar #672090 (admitted *pro hac vice*)
dbooth@boothsweet.com
Booth Sweet LLP
32R Essex Street
Cambridge, MA 02139
617-250-8602
Fax 617-250-8883

Attorneys for Putative Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

MICHAEL G. SCHWERN,
Plaintiff,

v.

PATRICK PLUNKETT, personal
representative of the estate of Nóirín Plunkett,
Putative Defendant.

Case No. 3:14-cv-00146-PK

**DECLARATION OF DAN BOOTH
IN SUPPORT OF PATRICK
PLUNKETT'S REPLY IN SUPPORT
OF MOTION FOR RELIEF UNDER
FED. R. CIV. P. 60(b)(1) and MOTION
TO DISMISS UNDER FED. R. CIV. P.
12(b)(2), (5), and (6)**

I, Dan Booth, do hereby swear and say as follows.

1. I am counsel for the putative defendant Patrick Plunkett in this action. I make and submit this declaration in support of his reply in support of his motion for relief under Fed. R. Civ. P. 60(b)(1) and motion to dismiss under Fed. R. Civ. P. 12(b)(2), (5), and (6). Unless otherwise stated, I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

2. Attached to the reply as Exhibit A is a true and correct copy of a series of emails on February 2 and 3, 2016, between me and Courtroom Deputy Gary Magnuson, with copies sent to Mr. Plunkett's local counsel Lake Perrigey and Plaintiff Michael Schwern's attorney Bear Wilner-Nugent.
3. Attached to the reply as Exhibit B is a true and correct copy of a series of emails on July 30, 2015 between me and Bear Wilner-Nugent, with copies sent to Lake Perrigey.
4. Attached to the reply as Exhibit C is a true and correct copy of a series of emails from September 18 to 23, 2015 between me and Bear Wilner-Nugent.
5. Attached to the reply as Exhibit D is a true and correct copy of a series of emails from September 30 to October 1, 2015 between me and Bear Wilner-Nugent.
6. On October 20, 2015, I replied to an email from Bear Wilner-Nugent dated October 19, 2015, to say in part, "As anticipated, he [Patrick Plunkett] has retained me on behalf of the estate for purposes of Mr. Schwern's lawsuit and appeal."
7. Attached to the reply as Exhibit E is a true and correct copy of the Letters of Authority for Personal Representative, *In re Estate of Nóirín Patricia Plunkett*, Docket No. MI15P5711EA, Middlesex Probate and Family Court (filed Oct. 21, 2015), certified by the Register of Probate.
8. On Friday, October 23, 2015, I replied to an email from Bear Wilner-Nugent dated October 22, 2015, to say in part, "The Probate Court granted his [Patrick Plunkett's] petition to be appointed representative of the estate on Wednesday."
9. Attached to the reply as Exhibit F is a true and correct copy of a series of emails on October 26, 2015 between me and Bear Wilner-Nugent.

10. Attached to the reply as Exhibit G is a true and correct copy of a series of emails on October 29, 2015 between me, Courtroom Deputy Gary Magnuson, and Bear Wilner-Nugent, with copies sent to Lake Perriguet.
11. Attached to the reply as Exhibit H is a true and correct copy of the public profile of Andrew Weir as it appeared on the LinkedIn website at <https://www.linkedin.com/in/andrew-weir-20a21930> on February 4, 2016.
12. Upon information and belief, the Law Society of Ireland is the professional body for the regulation, education, and representation of solicitors in Ireland. I have reviewed its public website, <https://www.lawsociety.ie/>. According to the website, <https://www.lawsociety.ie/Public/Become-a-Solicitor/>, the final step for a solicitors to be qualified to practice in Ireland is admission to the Roll of Solicitors in Ireland. Further, according to the website, <https://www.lawsociety.ie/Public/Foreign-Lawyers/>, people who are first qualified as solicitors in Northern Ireland must obtain a Certificate of Admission to be admitted to the Roll of Solicitors in Ireland. The Law Society of Ireland maintains the Roll of Solicitors in Ireland on its website, <https://www.lawsociety.ie/Find-a-Solicitor/>. Andrew Weir is not listed on the Roll of Solicitors of Ireland. He is also not on the Law Society of Ireland's list of Registered Lawyers who, though not qualified in Ireland, are entitled to practice there under European law, https://www.lawsociety.ie/Documents/PC_membership/RL-List.pdf.
13. I have reviewed the public website, <http://www.processserversireland.com>, of the Professional Information Agency Ltd. The website indicates that the agency is qualified to serve legal documents in Ireland and Northern Ireland. Nothing on the website indicates that the agency is a solicitor's office or can provide "service in Ireland directly through a solicitor in Ireland" in accordance with Ireland's terms of accession to the Hague Convention.

14. Attached to the reply as Exhibit I is a true and correct copy of a series of emails on February 3 and 4, 2016 between me and Bear Wilner-Nugent.
15. I have reviewed the Perl Foundation's public website for Perl Mongers, <http://www.pm.org>. It identifies Boston.pm as the Boston chapter of Perl Mongers and PDX.pm as the Portland chapter. <http://www.pm.org/groups/12.html>; <http://www.pm.org/groups/79.html>. On March 3, 2016, I reviewed the Boston.pm home page, <http://boston-pm.wikispaces.com/>, which states that the chapter has 134 members, and the Boston.pm meetup page, <http://www.meetup.com/Boston-pm/members/>, which lists those 134 members. Also on March 3, 2016, I reviewed the PDX.pm home page, <http://pdx.pm.org/>. I followed a link on the home page to access the Portland Perl Monger Members wiki page, <https://github.com/PortlandPerlMongers/portlandperlmongers.github.io/wiki/PortlandPerlMongerMembers>, which lists the 74 members of Portland Perl Mongers, including Michael Schwern.
16. I have reviewed a PDF on the Perl Foundation's web site at <http://www.pm.org/census.pdf> that presents the results of a Perl Mongers 2005 Census. The PDF states, "Perl Mongers are famously difficult to count" and adds, "It's a lot like herding cats." The PDF indicates that in the census, 310 Perl Mongers group leaders were asked, "How many people are subscribed to your mailing list?" It further indicates that there were 207 responses, from which the three biggest mailing lists identified were London.pm (736), Seattle.pm (394), and Boston.pm (300).
17. On March 3, 2016, I conducted searches on the employment website Monster.com for job opportunities listed with the keyword "perl" in Massachusetts, <http://jobs.monster.com/search/?q=perl&where=Massachusetts>, and in Oregon, <http://jobs.monster.com/search/?q=perl&where=Oregon>. My searches yielded lists of 993 Perl Jobs in Massachusetts and 245 Perl Jobs in Oregon.

18. On March 3, 2016, I conducted a search on the employment website LinkedIn Jobs, <https://www.linkedin.com/job/home>, for job opportunities with the keyword “perl” restricted to the Greater Boston area, https://www.linkedin.com/vsearch/j?orig=JSHP&keywords=perl&distance=50&locationType=I&countryCode=us&postalCode=02119&trk=two_box_geo_fill. The search returned 902 results. On the same day I conducted a search on the same website for job opportunities with same the keyword “perl,” restricted to the Portland area, https://www.linkedin.com/vsearch/j?orig=JSHP&keywords=perl&distance=50&locationType=I&countryCode=us&postalCode=97215&trk=two_box_geo_fill. The Portland search returned 203 results.
19. I have reviewed the list of the seven co-signers of the September 30, 2013 Geek Feminism Blog post attached as Exhibit 6 to Plaintiff’s March 20, 2014 response to Plaintiff’s motion to strike (Doc. 14; *see* Doc. 16 p. 8). I determined, by reviewing publicly viewable online sources, that none of the seven co-signers lives in Oregon or Massachusetts. Specifically, Ashe Dryden lives in Madison, Wisconsin (*see* <https://modelviewculture.com/authors/ashe-dryden>); Alex Bayley lives in Ballarat, Victoria, Australia (*see* <http://infotrope.net/about/faq/>), and each of the other five live in San Francisco: Annalee (Newitz) (*see* <http://arstechnica.com/author/annalee/>), Rachel Chalmers (*see* <https://modelviewculture.com/authors/rachel-chalmers>), Tim Chevalier (*see* <https://modelviewculture.com/authors/tim-chevalier>), Liz Henry (*see* <https://modelviewculture.com/authors/liz-henry>), and Leigh Honeywell (*see* <https://modelviewculture.com/authors/leigh-honeywell>).
20. I have reviewed the publicly viewable website of the Ada Initiative, <http://adainitiative.org/>, which is still live though the organization itself shut down in 2015. *See* <http://adainitiative.org/2015/08/04/announcing-the-shutdown-of-the-ada-initiative/>. It identifies

the two founders of the Ada Initiative as Valerie Aurora, who “lives and works in San Francisco, California,” and Mary Gardiner, who “is based in Sydney, Australia.” <http://adainitiative.org/about-us/founders-and-staff/>. It identifies the three members of its board of directors as Aurora, Gardiner, and Andrea Horbinski, a Ph. D. candidate at UC Berkeley. <http://adainitiative.org/about-us/directors/>

21. I personally accessed and saved as a PDF each Exhibit referenced in this declaration from my own email files except Exhibit E, which I received as a PDF via the Probate Court of Massachusetts, and Exhibit H, which I accessed on LinkedIn’s public website and saved as a PDF.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 7, 2016

/s/ Dan Booth
Dan Booth